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FILED

Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2008-2988

13 **RACHELLE LOU GUZMAN**
14 **1491 Southgate Avenue**
15 **Daly City, CA 94015**

A C C U S A T I O N

16 **Vocational Nurse No. VN 222279**

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs.

22 2. On or about August 17, 2006, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Vocational Nurse Number VN 222279 to Rachelle Lou Guzman
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
25 the charges brought in this Accusation and will expire on June 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.).

5. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

STATUTORY/REGULATORY PROVISIONS

6. Section 2878 of the Code states, in pertinent part:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, [certain enumerated categories]

"(b) Procuring a certificate by fraud, misrepresentation, or mistake.

. . .

"(e) Making or giving any false statement or information in connection with the application for issuance of a license.

"(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction."

. . .
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"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee."

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. California Code of Regulations, title 16, section 2521 states, in pertinent part:

"For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

"(a) Procuring a license by fraud, misrepresentation, or mistake.

• • •

"(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINARY ACTION

(Unprofessional Conduct)
(Bus. & Prof. Code § 2878(a))

10. Respondent has subjected her vocational nurse license to disciplinary action under section 2878(a) of the Code on the grounds of general unprofessional conduct. The circumstances are as follows:

a. On or about December 1, 2008, Respondent was stopped in her car by a Daly City police officer for failing to stop at a stop sign. Respondent was unlawfully driving her Ford van while her driving privilege was suspended. Respondent did not have automobile insurance. Respondent was cited for violating Vehicle Code sections 22450, subdivision (a) (failing to stop at a stop sign); 16022, subdivision (a) (no insurance); and 14601.1 (driving when license suspended).

SECOND CAUSE FOR DISCIPLINARY ACTION

(Conviction)

(Bus. & Prof. Code §§ 490 and 2878(f))

11. Respondent has subjected her Vocational Nurse License to disciplinary action under Code sections 490 and 2878, subdivision (f), and California Code of Regulations, title 16, section 2521, in that she was convicted of a crime substantially related to the qualifications, functions, or duties of a vocational nurse. Specifically, on or about April 23, 2009, in the Superior Court of California, County of San Mateo, Case No. NM381362A, Respondent was convicted by her plea of nolo contendere of violating Vehicle Code section 14601.2, subdivision (a) (driving when privilege suspended or revoked for a conviction of driving under the influence, with a prior), a misdemeanor. Respondent was placed on probation for 2 years upon terms and conditions, which included, but were not limited to, serving 10 days in county jail, with fine of \$1,139.00 converted to jail time. On or about May 1, 2009, the probation was modified upon terms and conditions, which included serving 8 days in county jail in lieu of paying a fine. Respondent was ordered to surrender to county jail on June 6, 2009. She was later recommended to the Sheriff's Alternative Sentencing Bureau.

THIRD CAUSE FOR DISCIPLINARY ACTION

(Unprofessional Conduct)

(Bus. & Prof. Code §§ 2878(a))

12. The allegations of Paragraph 11 are realleged and incorporated by reference as though fully set forth.

13. Respondent has subjected her vocational nurse license to disciplinary action under section 2878(a) of the Code on the grounds of general unprofessional conduct, as follows.

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1 At some time after May 7, 2010, the Board received an application to renew Vocational
2 Nurse License No. VN 222279 from Respondent. On or about May 7, 2010, Respondent certified
3 under penalty of perjury that the information provided on the form was true and correct. In fact,
4 Respondent made a false statement as to a material fact on her Renewal Application in that she
5 answered "No" to the question whether she had been convicted of any crime since she last
6 renewed her license. Indeed, as set forth above in paragraph 11, on or about April 23, 2009, in
7 the Superior Court of California, County of San Mateo, Case No. NM381362A, Respondent was
8 convicted by her plea of nolo contendere of violating Vehicle Code section 14601.2, subdivision
9 (a) (driving when privilege suspended or revoked for a conviction of driving under the influence,
10 with a prior).

11 FOURTH CAUSE FOR DISCIPLINARY ACTION

(False Statement)

12 (Bus. & Prof. Code §§ 2878(b), 2878(e) and 2878(j))

13 14. The allegations of Paragraphs 10, 11, 12, and 13 are realleged and incorporated
14 by reference as though fully set forth.

15 15. Respondent has subjected her vocational nurse license to disciplinary action under
16 sections 2878, subdivision (b), 2878, subdivision (e), and 2878, subdivision (j) of the Code on the
17 grounds of procuring a renewal license by providing a false statement, making a false statement
18 in an application, and committing a dishonest act, as set forth in Paragraphs 10, 11, 12, and 13,
19 above.


20 MATTERS IN AGGRAVATION OF PENALTY

21 16. Complainant alleges, by way of aggravation of any penalty to be imposed in this
22 matter, that on or about May 18, 2006, in the Superior Court of California, Santa Clara County,
23 Case No. BB517027, Respondent was convicted by her plea of no contest of violating Vehicle
24 Code sections 23152, subdivision (b) (driving with a blood alcohol content of .08% or more), and
25 12500, subdivision (a) (driving without a valid driver's license), both misdemeanors. Respondent
26 was placed on probation for 3 years upon terms and conditions, which included, but were not
27 limited to, serving 6 days in jail, and enrolling and completing 3 month drinking driver program.

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1. Revoking or suspending Vocational Nurse Number VN 222279, issued to Rachelle Lou Guzman (Respondent);
2. Ordering Respondent to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer

SF2011900033
CR: 02/01/11